

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

GILBERT GARCIA

Plaintiff,

v.

CIV No. 13-77 GBW

CAROLYN W. COLVIN,
Acting Commissioner of Social Security Administration,

Defendant.

ORDER AWARDING ATTORNEY FEES & COSTS UNDER EAJA

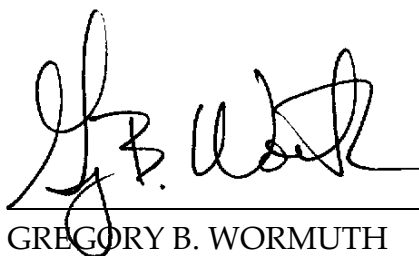
THIS MATTER is before the Court on Plaintiff's Motion for Attorney Fees Under Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412 (*doc. 22*) and the Commissioner's Response (*doc. 23*).

Plaintiff's attorneys state that they have performed 9.1 hours of work bringing this case in federal court, with an hourly billing rate of \$184 in 2012 and \$185 in 2013 and requests a fee award of \$1683.50. *Doc. 22 at 2-3 & Exs. A, B*. In addition, they claims costs in the amount of \$350.00. *Id. at 3, Ex. C*. Defendant has not objected to the amount of this reward. *Doc. 23*.

It is therefore ordered that attorney fees be awarded in the amount of \$1683.00 under the EAJA § 2412(d), payable to Plaintiff. *See Astrue v. Ratliff*, 130 U.S. 2521 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

It is further ordered that, if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

IT IS THEREFORE ORDERED that attorney fees are awarded under the Equal Access to Justice Act, 28 U.S.C. §2412(d), payable to Plaintiff in the amount of \$1683.50.

A handwritten signature in black ink, appearing to read 'G.B. Wormuth', is written over a horizontal line.

GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE
Presiding by consent